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Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Stewart W. Hurst  
Vice President  
Ben Hill Griffin, Inc.  
Box 127  
Frostproof, Florida 33843

Dear Mr. Hurst:

This is in response to your letter to Senator Connie Mack regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. You express concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. You also express concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies. Senator Mack has asked that I respond to your letter directly.

On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in (PR Docket No. 93-144) which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non-SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public

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interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David Furth", with a stylized, cursive script.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

Enclosure

CONNIE MACK  
FLORIDA

# United States Senate

WASHINGTON, DC 20510-0904

May 13, 1996

*Handwritten notes:*  
CMB  
PRB  
Antw  
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2559

Judith Harris  
Director, Office of Legislative and Intergovernmental Affairs  
Federal Communications Commission  
Room 808, 1919 M Street, NW  
Washington, DC 20554

Dear Ms. Harris,

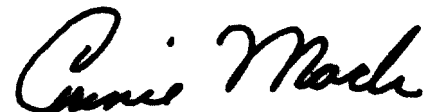
I have been contacted recently by several Florida businesses and government agencies who have expressed their concern with the proposed FCC auction of licenses within the 800 Mhz band.

I recognize that the Federal Communications Commission has already adopted proposals for service and competitive bidding rules for the 800 MHz Specialized Mobile Radio (SMR) spectrum. Of particular concern to these groups is the auction of the General Category Pool of this spectrum. All have significant investments in their current radio communications systems and the State of Florida has committed an additional \$50 million to the future implementation of a state-wide law enforcement communications system.

Members of my staff have communicated with the FCC regarding this situation and have been informed that the FCC has planned accordingly for those businesses and government entities who currently hold licenses for channels within this spectrum. I have included copies of the letters I received from the Florida Department of Law Enforcement, the Florida Game and Fresh Water Fish Commission, Ben Hill Griffin, Inc., the State Paving Corporation, and VSM Inc. If you have not already done so, I would appreciate your responding directly to these companies and government agencies. In addition, please forward a copy of all correspondence you have had with these groups to Kimberly Cobb in the care of Mat Bazley at 517 Hart Senate Office Building, Washington, D.C. 20510.

Thank you, in advance, for your time and attention to this matter.

Sincerely,



Connie Mack  
United States Senator

CM/mcb  
Enclosures



Florida Department of  
Law Enforcement

James T. "Tim" Moore  
*Commissioner*

P.O. Box 1489  
Tallahassee, Florida 32302  
(904) 488-8771

Lawton Chiles, *Governor*  
Sandra B. Mortham, *Secretary of State*  
Robert A. Butterworth, *Attorney General*  
Robert F. Milligan, *Comptroller*  
Bill Nelson, *Treasurer*  
Bob Crawford, *Commissioner of Agriculture*  
Frank T. Brogan, *Commissioner of Education*

March 4, 1996

Honorable Connie Mack  
U.S. Senator  
517 Hart Building  
Washington, D.C. 20510

Re: Federal Communications Commission's proposal to auction 800 MHz radio channels and the impending detrimental impact on the Florida Statewide Law Enforcement Radio Communications.

Dear Senator Mack:

We have learned that the Federal Communications Commission (FCC) is soliciting comments on their planned auction of, among other radio channel pools, the General Category Pool to the business community. This pool consists of 150 radio channels which are currently shared among various radio services, including Public Safety.

Within this pool, the State of Florida Joint Task Force on Law Enforcement Communications is presently licensed for 21 channels. These channels are utilized in our statewide radio communications for law enforcement agencies. The second phase of this five phase implementation is currently under construction, having followed a successful Pilot Program on Phase I in Dade, Monroe and Broward counties. Phase II will encompass counties from Flagler to Palm Beach.

The State has already invested nearly \$25 million in this project and has committed an additional \$50 million for the current phase. To lose these frequencies will result in catastrophic consequences, as our goals for providing reliable radio communications to law enforcement in Florida will be compromised.

I urge you to relay this concern to members of the Commission in Washington, and to provide any other help to ensure completion of this project. We would like the FCC to protect our 21 channels from the auction block and allow us flexibility to modify our system as needed in order to realize our radio coverage requirements.


Honorable Connie Mack

March 4, 1996

Page Two

We do not believe there are any viable alternatives to our use of these radio channels to complete construction of our radio system. This system is critically needed by state law enforcement entities in Florida. The completed portion of this system has proven very valuable for coordination of mutual aid among state, local and federal law enforcement. I am enclosing a listing of this agency's mutual aid activities, made possible with this system. The response comments prepared by the Florida Division of Communications to the FCC are also enclosed for your review.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim", with a long, sweeping horizontal line above it.

James T. Moore  
Commissioner

JTM/jd

Enclosures



## FLORIDA GAME AND FRESH WATER FISH COMMISSION



JULIE K. MORRIS  
Sarasota

QUINTON L. HEDGEPETH, DDS  
Miami

MRS. GILBERT W. HUMPHREY  
Micosukee

THOMAS B. KIBLER  
Lakeland

ALLAN L. EGBERT, Ph.D., Executive Director  
WILLIAM C. SUMNER, Assistant Executive Director

DIVISION OF LAW ENFORCEMENT  
COLONEL ROBERT L. EDWARDS, Director  
FARRIS BRYANT BUILDING  
620 South Meridian Street  
Tallahassee, FL 32399-1600  
(904) 488-6251  
TDD (904) 488-9542

March 8, 1996

Honorable Connie Mack  
United States Senator  
517 Hart Senate Office Building  
Washington, DC 20510

Re: Federal Communications Commission's Proposed Auction of 800 MHz Channels and the Potential Detrimental Impact on State of Florida Statewide Law Enforcement Radio Communications

Dear Senator Mack:

This is in reference to a proposed action by the Federal Communications Commission which will negatively effect law enforcement and public safety in Florida.

In a recent release, the Federal Communications Commission (FCC) is soliciting comments on their proposed auction of, among other channel pools, the General Category Pool to the business community. This pool consists of 150 channels which are currently shared among various radio services, including Public Safety.

Within this pool, the State of Florida Joint Task Force on Communications is licensed for 21 channels. These channels are utilized in our statewide radio communications for state law enforcement agencies. The second phase of this five-phase implementation is currently under construction, having followed a successful Pilot Program in Phase I (Monroe, Dade, and Broward Counties). Phase II includes 12 counties from Flagler to Palm Beach.

The state has invested nearly \$25 million for this project and has committed an additional \$50 million for the current phase. To lose these frequencies will result in catastrophic consequences to our goals for providing state of the art radio communications to law enforcement in Florida.

Honorable Connie Mack

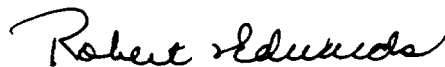
March 8, 1996

Page Two

We urge you to relay this concern to members of the Commission in Washington. We would like the FCC to protect our 21 channels from the auction block and furthermore allow us flexibility in modifying our system, as needed, in order to realize our radio coverage requirements. This system is absolutely necessary for the safety of our Wildlife Officers who patrol Florida's 37 million acres of land and fresh water. It is also essential in the protection of public safety and our natural resources. Enclosed is some information on this matter for your review.

Thank you in advance for your support of our efforts to save our law enforcement radio frequencies.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert L. Edwards".

Colonel Robert L. Edwards

Director, Division of Law Enforcement

RLE\KWH\bd

L5934494

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Enclosure

cc: Mr. Glenn W. Mayne  
Dr. Allan L. Egbert  
Lt. Colonel Randy Hopkins

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In the matter of	)	
	)	
Amendment of Part 90 of the	)	PR Docket No. 93-144
Commission's Rules to Facilitate	)	RM-8117, RM-8030
Future Development of SMR Systems	)	RM-8029
Implementation of Sections 3(n)	)	GN Docket No. 93-252
and 322 of the Communications Act	)	
Regulatory Treatment of Mobile	)	
Services	)	
Implementation of Section 309 (j)	)	
of the Communications Act -	)	PP Docket No. 93-253
Competitive Bidding	)	
800 MHz SMR	)	

To: The Commission

**COMMENTS OF THE STATE OF FLORIDA, DIVISION OF COMMUNICATIONS**

The Commission's Second Further Notice of Proposed Rulemaking in the above-referenced proceedings specifically solicited comments suggesting provisions for currently licensed non-SMR systems utilizing 800 MHz General Category channels (§ 315). Since the State of Florida, Division of Communications is a licensee on 21 of these channels in the Public Safety Radio Service, we are strongly opposed to any provisions which would negatively impact our existing or planned use of these channels, and hereby submit the following comments on this issue.

Twenty of the General Category channels, licensed to the Division of Communications<sup>1</sup>, are designated for trunked use within a statewide digital radio communications system being implemented to serve all of Florida's state law enforcement agencies. These 20 channels were coordinated from the General Category due to the unavailability of channels from the Public Safety Trunked Category at the time applications were filed.

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<sup>1</sup> The 20 channels are FCC channel numbers 114 (853.8375 MHz) through 133 (854.3125 MHz) inclusive. A waiver was granted to allow use of these channels in trunked mode.



In addition to these 20 General Category channels, the Division of Communications is licensed for 30 channels under the National Public Safety Plan as reflected in the Florida - Region 9 Plan for Public Safety Radio Communications. Together, these 50 channels are the essential resource to enable realization of our new statewide trunked radio system. Funding for the radio system was authorized by the Florida Legislature in 1988, and construction is now in the second of a five-phase implementation schedule. The total cost of the system is expected to be approximately \$400 million<sup>2</sup>.

The remaining (twenty-first) General Category channel licensed to the Division of Communications (853/808.3875 MHz — FCC channel 96) is used in conventional mode as a statewide mutual aid channel available to all state and local public safety agencies. A waiver was granted to enable licensing without regard to loading to facilitate use of the channel. This channel has been an established resource in Florida's state and local communications planning for over a decade, and is now in use by numerous public safety agencies throughout the state. The channel was well established several years prior to development of the National Public Safety Plan, and continues to serve as an additional mutual aid resource beyond the National Plan, as well as providing a means for mutual aid communications for public safety users in the 806 to 821 MHz band who cannot access National Plan mutual aid channels due to equipment limitations.

Due to the high demand for 800 MHz radio channels throughout most of Florida (the nation's 4th most populous state), spectrum in all of the land-mobile bands has been severely congested on a continuing basis. Each of the FCC's spectrum allocations to public safety over the past three decades has been followed by a flood of new applications quickly resulting in a depletion of available channels. Even the newest National Plan channels are unavailable for new licensing in the central and southern areas of the state where channel demand is highest.

Public safety agencies at all governmental levels in Florida, many of whose systems include channels in the General Category pool, have invested heavily in 800 MHz radio communications over the past two decades. Given the severe budgetary cutbacks affecting all governmental procurement combined with the burden of long budgetary cycles, it is imperative that public safety communications not be required to vacate General Category channels under any circumstances, and that all current flexibility in system modifications (changes in site locations, transmitting parameters, and operating area) be maintained.

Florida's statewide law enforcement 800 MHz trunked radio system in particular has borne extreme difficulties of every sort from initial legislative funding through design, procurement, and construction to arrive at its present successful stage. In order to eventually achieve our objective of providing state-of-the-art radio communications for the state law enforcement community in Florida, we adamantly request that the Commission preserve these

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<sup>2</sup> Expenditures to date for Phase 1 of the project (constructed) are \$24 million. Funding committed for Phase 2 (currently in construction) is nearly \$50 million. These figures include construction and operational costs.

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FROM DIV COMMUNICATIONS

TO KYLE HILL GFC

F007/009

21 General Category channels within Florida for the exclusive use of this radio system, including the necessary flexibility to implement all system changes as are normal and required for a system of this magnitude. We further request that this freedom to continue implementation of the system apply to all its stations throughout the state whether presently constructed or not, and to future additional stations which may be required in order to satisfy the overall objectives of this project. In view of the statewide nature of law enforcement operations on all 21 of these channels, we specifically request that no rule provisions be adopted which would limit our ability in the future to license any stations necessary to provide continuous coverage within the State of Florida and no less than a 22 dBu signal level at the perimeter boundaries with adjacent states.

We are encouraged that the Commission has expressed a "tentative" decision not to subject existing General Category licensees to a possible spectrum relocation, but we urge in the strongest terms that public safety licensees such as ourselves continue to be allowed the flexibilities described above on these channels. Failure to maintain these conditions would have a devastating impact upon the future of public safety radio communications in Florida and elsewhere, and specifically upon state law enforcement communications in our particular case.

Respectfully submitted,

State of Florida Division of Communications

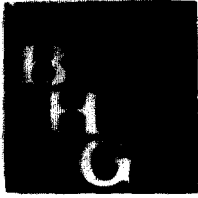
By: 

Glenn W. Mayne, Director  
Division of Communications  
Department of Management Services  
4050 Esplanade Way  
Building 4030  
Tallahassee, Florida 32399-0950

By: 

John R. DiSalvo, P.E., Chief  
Bureau of Communications Engineering  
Division of Communications  
Department of Management Services  
4050 Esplanade Way  
Building 4030  
Tallahassee, Florida 32399-0950

February 7, 1996



## Ben Hill Griffin, Inc.

FOUNDER

B. H. GRIFFIN JR.  
(1910 - 1990)

BOX 127

FROSTPROOF, FLORIDA  
33843

April 15, 1996

Senator Connie Mack  
517 Hart Senate Office Bldg.  
Washington DC 20510

Dear Senator Mack:

Re: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only Service and Proposed Implementation of Competitive Bidding Processes

In the above referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

We do not use our frequencies to generate business revenues. Our agribusiness company utilizes the wireless radio network to carry out day to day communications among dozens of mobile and land-based personnel for citrus grove caretaking and safety needs. It is not used for sales in any way. This proceeding will adversely affect our ability to run our business as we do now, severely limiting communications within our company, and will potentially waste our \$400,000 investment in the radio system.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

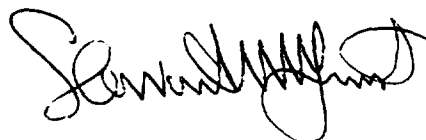
The effect of this redesignation and potential auction infringes on the existing range and function of our radio system. Our investment was made in good faith and is dependent upon fair and equitable regulatory treatment by the FCC. The FCC's disregard of the benefits that private wireless systems provide the general public and your constituents is abundantly clear from their action.

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at loss to understand federal government action that would expose our company to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stewart W. Hurst", with a stylized flourish at the end.

Stewart W. Hurst  
Vice President  
Ben Hill Griffin, Inc.

SWH/smr

# STATE PAVING CORP.

March 25, 1996

Senator Connie Mack  
517 Hart Senate Office Building  
Washington, D.C. 20510

RE: FCC PR Docket No. 93-144, Redesignation of the 800  
MHz General Category Pool to a Commercial-only  
Service and Proposed Implementation of Competitive  
Bidding Processes

Dear Senator Mack:

In the above-referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the ~~800~~ MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

We are a locally owned and operated construction firm which utilizes our radio system to coordinate the movements and operations of our numerous personnel, vehicles & equipment over the tri-county area. We have made a sizeable investment (in excess of \$100,000.00) in our equipment and systems which would be rendered useless and unrecoverable should the FCC auction off our wavelength.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications.

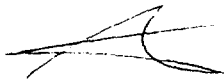
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We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Very truly yours,

STATE PAVING CORPORATION

A handwritten signature in dark ink, appearing to be 'T. M. Smith', with a stylized flourish at the end.

Timothy M. Smith, President

TMS:pad



(904) 783-2600

P.O. Box 5761 • JACKSONVILLE, FLORIDA 32247

March 28, 1996

The Honorable Connie Mack  
United States Senate  
Washington, D. C. 20510

Re: FCC PR Docket No. 93-144, Redesignation of 800 MHZ General Category Pool to a  
Commercial Only Service and Proposed Implementation of Competitive Bidding Processes

Dear Senator Mack:

The referenced proceeding adversely effects our mobile radio system here in Jacksonville. We have previously been issued a frequency on which to operate our business and invested many thousands of dollars and significant time in setting up our current system. If this proceeding results in an "Order" we will be negatively impacted by the resulting change in Licensee who would pre-empt our position.

We request you urge the FCC to reverse its recent reallocation of the 800 MHZ General Category Pool as this reallocation appears to be for the sole purpose of conducting auctions and is neither sound policy management nor fair to existing operators who have made major financial investments in their mobile system.

Sincerely,

A handwritten signature in dark ink, appearing to read "VSM", with a stylized flourish extending to the right.

Van S. Monroe

c ITA